



Request for City Council Committee Action from the Department of BIS

Date January 3, 2007

To **Paul Ostrow, Chair, Ways and Means Committee**

Subject **Amend contract with USI Wireless, Inc.**

Recommendation Authorize amending the USI Wireless contract to remit Digital Inclusion Funds directly from USI Wireless to designated fund recipient.

Prepared by Susan Trammell, Assistant City Attorney

Submitted by William E. Beck _____, 673-3190
Deputy Chief Information Officer

Approved by Steven Bosacker _____
City Coordinator

Permanent Review Committee (PRC) Approval – Not Applicable

Policy Review Group (PRG) Not Applicable

Committee Presenter Bill Beck

Financial Impact: None

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
- Action requires an appropriation increase to the Capital Budget or Operating Budget.
- Action provides increased revenue for appropriation increase.
- Action requires use of contingency or reserves.
- Business Plan: Action is within the plan.
- Other financial impact (Explain):
- Request provided to department's finance contact prior to the Committee Coordinator.

Community Impact (use any categories that apply) – Not Applicable

Ways and Means Committee

Background/Supporting Information Attached

The City of Minneapolis contracted with USI Wireless to provide wireless broadband IP data access network on November 2, 2006.

Digital Inclusion Funds are payments to be made by USI Wireless as a part of the contract with the City to help bridge the digital divide. Specific amounts are specified over the ten year duration of the contract.

The contract addresses remittance of Digital Inclusion Funds (DIF) in Attachment C, Payments/Pricing/Schedule of Fees. Attachment C currently directs USI Wireless to pay to the City funds that are to be dedicated to the Minneapolis DIF and for the City to remit the funds to the appropriate foundation. The language in Attachment C is contrary to the intent of the parties. The City and USI Wireless had agreed to USI Wireless remitting the DIF directly to the entity selected by the Digital Inclusion Task Force (DITF) and approved by the City to support efforts to bridge the digital divide in Minneapolis. In addition, the Pension Protection Act of 2006 (PPA), enacted August 17, 2006, impacts the type of fund, a Donor Advised Fund (DAF), anticipated to be created to hold the DIF. Under the PPA, DAFs are prohibited from making payments to donors, donor advisors, or their family members. The relevant tax code provisions make the City, as the donor of the funds, ineligible for grants, or other payments from the Fund. This restriction could create complications as the libraries, the parks and other City entities would be logical entities to facilitate bridging the digital divide. Changing the Contract to read as originally intended would clarify that USI Wireless is the donor of the DIF, not the City. The City would then be eligible to receive grants and payments from the DAF.